

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**KATHERINE CROCKETT,
Plaintiff,**

CIVIL ACTION

v.

**LUITPOLD PHARMACEUTICALS, INC.,
AMERICAN REGENT, INC., DAIICHI
SANKYO, INC., DAIICHI SANKYO CO.,
LTD., VIFOR PHARMACEUTICALS
MANAGEMENT, LTD AND VIFOR
PHARMA-ASPEREVA
PHARMACEUTICALS, INC.,
Defendants.**

NO. 19-276

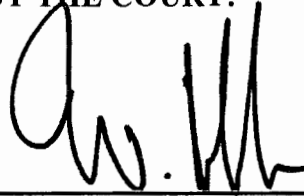
ORDER

AND NOW, this 28th day of January, 2020, upon consideration of Defendants American Regent, Inc., Daiichi Sankyo, Inc., and Daiichi Sankyo US Holdings, Inc.'s Motion to Dismiss for Failure to State a Claim and briefing in support thereof (ECF Nos. 57 & 78), and Plaintiff's response thereto (ECF No. 70), **IT IS HEREBY ORDERED** that the Motions to Dismiss are **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Defendants' Motions to Dismiss Count I (negligence), Count V (fraud), and Count VIII (breach of express warranty) are **GRANTED**. Counts I, V, and VIII are **DISMISSED WITHOUT PREJUDICE**.
2. Defendants' Motions to Dismiss Count II (negligent failure to warn), Count III (negligent design defect), and Count IV (negligent misrepresentation) are **DENIED**.
3. Defendants' Motions to Dismiss Count VI (strict liability for failure to warn), Count VII (strict liability for defective design), Count IX (breach of implied warranty), Count X (breach of consumer protection laws), and Count XI (gross negligence) are **GRANTED**. Counts VI, VII, IX, X, and XI are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to amend is **HEREBY GRANTED**. Plaintiff shall amend her Complaint **on or before February 25, 2020**. The Amended Complaint shall not include any claims that have been dismissed with prejudice.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'W. Beetlestone', written over a horizontal line.

WENDY BEETLESTONE, J.